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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,221	06/21/2002	Lawrence Miller	72167.000582	4472

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EXAMINER

SWERINGEN, JEFFREY R

ART UNIT PAPER NUMBER

2145

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/064,221

Applicant(s)

MILLER ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-42 is/are pending in the application.
- 4a) Of the above claim(s) 1, 12 and 26-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/15/2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 39-42 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonough et al. (US 5,991,878).

5. In regard to claim 39, McDonough disclosed:

the server receiving from the client a connection request to the server system, said connection request including a clear gif link, said request (1) including an indicia evidencing client receipt of the slow cookie or (2) not including an indicia evidencing client receipt of the slow cookie; See column 3, lines 13-38 for description of the URL (assumed to be a clear gif link since Applicant failed to specifically claim what a clear gif link is) in which a cookie is detected.

based on the clear gif link connection request, the server system determining if the slow cookie has been received by the client pursuant to a prior request from the client; Column 3, lines 39-57.

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wherein, if the slow cookie is determined by the server system to have been previously received by the client, the server system responds to the connection request with a clear gif response without the slow cookie, and permits the client to access further resources from one or more of said websites; Column 4, lines 57-67.

wherein, if the slow cookie is determined by the server system not to have been previously received by the client, the server system attempts to generate and provide the slow cookie in a clear gif response that includes the slow cookie. Creation of "sub cookies" for this session based on the detection of authentication information is detailed in column 3, lines 58-67. A "smart cookie" is later created from these "subcookies". Column 4, lines 44-63.

6. In regard to claim 40, McDonough disclosed:

*if the server system determines the slow cookie was not previously received by the client:
the server system determines if the slow cookie has at least one of been
prepared and is in the queue awaiting transmission to the client; and if so
the server system sends the slow cookie to the client included in the clear gif
response.*

One of ordinary skill in the art would reasonably interpret this claim, as currently presented, to mean the utilization of cache resources. See Column 4, lines 37-40.

7. Claims 41 and 42 cover substantially the same subject matter as claims 39-40. Claims 41-42 add an access resource limitation on files based upon the presence of cookies. Column 4, lines 60-63.

The abundance of periods in claims 39-42 is assumed to be a typographical error, and the claims are examined under the presumption that Applicant intended many of these to be commas and not periods. A clear gif link and a clear gif response are not necessarily a "clear gif" as Applicant defined on page 4 of the originally filed specification. A clear gif link is broadly interpreted as a URL and a clear gif response is broadly interpreted as the server response to the URL. Applicant has not claimed the presentation of a "transparent image file". Applicant also has not clearly stated the difference between a "fast cookie" and a "slow cookie" in the specification,

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so these have been broadly interpreted respectively as an authentication verification and a cookie with user data.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 39-40 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements in claim 39 are:

There is no element detailing the relationship between a link indicating receipt of a slow cookie and determining if the client has previously received the slow cookie. The claim currently reads as two disparate elements in a and b. A can be broadly read as a connection request indicating the receipt of a cookie within said connection request. If this is the reading applied, then B is referencing a previously stored slow cookie prior to A's connection request, which would involve the transmission of slow cookie A even though the client has already received slow cookie B. It is not clear if this is what Applicant intends.

10. In regard to claims 40(e) and 42(5), it is unclear what Applicant intends to claim by stating:

Determining if the slow cookie has been at least one of prepared and is in the queue awaiting transmission to the client's browser.

Applicant must clarify this language to allow for proper examination of the claim. No reasonable interpretation of this claim language can be made by one of ordinary skill in the art, in light of the original specification.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shi et al.

US 5,875,296

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Kirsch

US 5,963,915

Bezos et al.

US 6,029,141

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone
Supervisory Patent Examiner
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